

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

UNITED STATES

VERSUS

CRIMINAL NO: 2:03cr32-DCB

TERRY WILLIAMS

DEFENDANT

**ORDER**

This matter comes before the Court on defendant's Motion for Reduction of Sentence pursuant to 18 U.S.C. § 3582(c)(2) [docket entry no. 112]. The defendant requests a reduction of his sentence pursuant to the recent amendments to the sentencing guidelines applicable to offenses involving cocaine base and the subsequent decision by the United States Sentencing Commission to make this amendment retroactive. Having carefully considered the motion, information provided by the United States Probation Office, applicable statutory and case law, and being otherwise fully advised in the premises, the Court finds and orders as follows:

On May 14, 2004, pursuant to a plea agreement with the government, the defendant plead guilty to Count 1 of the indictment charging defendant with conspiracy to possess with the intent to distribute cocaine base, in violation of 21 U.S.C. § 846. Pursuant to U.S.S.G. § 2D1.1(c)(1), the defendant's original base offense level was 38 because the offense involved in excess of 1.5 kilograms of cocaine base. The defendant received a two level reduction since he met the criteria set forth in subdivisions (1)-(5) of subsection (a) of § 5C1.2 (Limitation on Applicability of

Statutory Minimum Sentences in Certain Cases), and he also received a three level reduction for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1(a) and (b). Therefore, the defendant's total offense level was 33, and he had a criminal history category of I. This Court determined that the defendant's guideline range for imprisonment was 135 to 168 months, and on September 8, 2008, he was sentenced to a term of 135 months imprisonment, to be followed by a five year term of supervised release.

On February 10, 2005, the defendant's sentence was reduced to 70 months imprisonment pursuant to Federal Rule of Criminal Procedure 35, based on the Government's recommendation and representation concerning the substantial assistance rendered by the defendant. On March 11, 2008, the defendant filed a Motion for Reduction of Sentence pursuant to Amendment 706. This motion now is before the Court.

Amendment 706 to the Sentencing Guidelines, which lowers the base offense levels applicable to crack cocaine offenses, went into effect on November 1, 2007. The United States Sentencing Commission determined that Amendment 706 would apply retroactively through United States Sentencing Guidelines Manual § 1B1.10, effective on March 3, 2008. The result of the amendment and its retroactivity is that this Court, pursuant to 18 U.S.C. 3582(c)(2), has the discretion to reduce the terms of a defendant's imprisonment when certain criteria are met.

The Court finds that the defendant is not eligible for a

sentence reduction. According to the Presentence Investigation Report, the defendant was responsible for the sale of more than 4.5 kilograms of cocaine. Pursuant to section 10(D)(ii)(I) of the Commentary for U.S.S.G. § 2D1.1, the two-level reduction sought by the defendant is not available if the offense involved "4.5 kg or more, . . . , of cocaine base." Moreover, the defendant was granted a Rule 35 sentence reduction for providing substantial assistance to the government and was released from custody on April 13, 2008. He is currently under supervised release. For these reasons, the Court finds that the defendant is not eligible for a sentence reduction pursuant to 18 U.S.C. 3582(c)(2). Based upon the foregoing analysis and authorities,

**IT IS HEREBY ORDERED** that the defendant's Motion for Reduction of Sentence [docket entry no. 112] is **DENIED**.

**IT IS FURTHER ORDERED** that all other terms and provisions of the original judgment remain unchanged and in full force and effect.

**SO ORDERED**, this the 18th day of November 2009.

\_\_\_\_s/ David Bramlette\_\_\_\_

**UNITED STATES DISTRICT JUDGE**